

**ILLINOIS STATE POLICE MERIT BOARD  
OF THE STATE OF ILLINOIS**

**IN RE THE MATTER OF:**

**TROOPER JESSICA KIRINCICH  
I.D. # 6279**

**Illinois State Police  
Merit Board No. 15 - 03**

**DECISION**

THIS CAUSE comes before the Merit Board on a one-count *Amended Complaint* filed by Leo P. Schmitz, Director of the Illinois State Police, following a full hearing before duly appointed Merit Board Hearing Officer, Terry C. Chiganos.

**FINDINGS OF FACT**

The Merit Board, having reviewed the charges filed, the evidence and testimony submitted, the Briefs of Counsel, and the Hearing Officer's *Recommended Findings of Fact and Conclusions of Law*, does hereby adopt and incorporate herein the Hearing Officer's *Recommended Findings of Fact and Conclusions of Law* for Count I of the *Amended Complaint*.

The Merit Board finds Trooper Kirincich guilty of violating the Department's Rules of Conduct (ROC) as alleged in Count I of the *Complaint*. Specifically, the Merit Board finds by a preponderance of the evidence that Trooper Kirincich violated ROC-002, Paragraph III.A.12 in that she is unable to perform the essential functions of an Illinois State Trooper, and is therefore unable to properly perform her job duties and cannot carry out the functions and objective of the Department in any sworn capacity.

Trooper Kirincich suffered two hypoglycemic events that resulted in medical treatment in a short period of time between December, 2012, and February 28, 2013. (Tr. 153-156, 191-193, 479) The February 28 event occurred while Kirincich was on duty, driving her squad car. (Tr. 153-156). On November 19, 2013, Kirincich completed a Reasonable Accommodation Request for Employees Form. (Pet. Ex. 11). Kirincich stated "Night shift causes my blood sugar levels to become unstable and lead to complications for my diabetes. My endocrinologist has advised me that working exclusively on a day shift would alleviate the possibility that my blood sugar levels would become unbalanced and allow me to fully perform my duties without complications." (Pet. Ex. 11).

Illinois State Troopers are required to be available to perform their duties 24 hours a day, and may be subject to call-outs in the event of an emergency. (Tr. 339). Trooper Kirincich's condition "presents a direct threat to the public which cannot be reasonable accommodated." (Pet. Ex. 9).

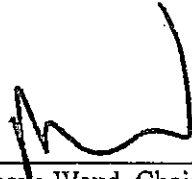
The Board considers Trooper Kirincich's continued employment to pose a significant risk of substantial harm to the public. Kirincich's own admission that "night shift causes [her] blood sugar levels to become unstable and lead to complications for [her] diabetes" makes clear that Kirincich's continued employment could likely result in future hypoglycemic events while on duty. The February 28 incident shows the significant level of harm that could result from future events, and future events could cause even greater harm.

#### PENALTY

The entirety of the evidence presented shows Trooper Kirincich is unable to fully perform the essential functions of an Illinois State Trooper. It is, therefore, the unanimous

decision of the Merit Board to terminate Trooper Kirincich from employment with the Illinois State Police.

Dated this 3<sup>rd</sup> day of March, 2017.



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Reeve Waud, Chairman  
State Police Merit Board, State of Illinois

ILLINOIS STATE POLICE MERIT BOARD  
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In Re the Matter Of:

TROOPER JESSICA KIRINCICH  
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DOCKET NO. 15-3

RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Appearance for the Petitioner:

Ms. Natalia M. Delgado  
Special Assistant Attorney General  
Illinois State Police  
1941 W. Roosevelt Road  
Chicago, Illinois 60608

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ILLINOIS STATE POLICE  
MERIT BOARD

Appearance for the Respondent:

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Lodge Counsel  
Troopers Lodge #41  
5880 South Sixth Street Road  
Springfield, Illinois 62703

Hearing Officer

Terry C. Chiganos  
Attorney at Law  
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Lisle, Illinois 50532

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## BACKGROUND

### PLEADINGS

On April 23, 2015 the Illinois State Police Merit Board (hereinafter "ISPMB") received a one count complaint filed by the Illinois State Police (hereinafter "ISP") against Illinois State Trooper Jennifer A. Kirincich (hereinafter "Respondent") for a violation of the Rules of Conduct.

Specifically the Complaint alleges the Respondent violated Paragraph III.A.12., Unsatisfactory Work Performance "in that she is unable to perform the essential functions of an Illinois State Trooper ... and is unable to properly perform her duties and cannot carry out the functions and objectives of the Department in any sworn capacity."

This is a Level I violation and the reprimand for a first offense carries a range of sanctions from a reprimand to up to a three (3) day suspension. The Petitioner is seeking to terminate the employment of the Respondent.

On April 11, 2016 the Petitioner filed a Motion to file an Amended Complaint which added an additional paragraph to the Complaint. The Motion to File the Amended Complaint was granted over objection of the Respondent and was received and marked as Hearing Officer's Exhibit #1.

### PRE-HEARING PROCEDURES

The Respondent was represented by Mr. Guy Studach, Lodge Counsel, Troopers Lodge #41. The Petitioner was represented by Ms. Natalia M. Delgado, Special Assistant Attorney General. Ms. Jennifer Grady-Paswater was also an attorney of record for the Petitioner but subsequently withdrew as counsel.

The parties exchanged documents and witness lists as requested and provided for in the Rules.

During the course of the disclosure process Mr. Studach on behalf of the Respondent filed a Motion for an In Camera Inspection of certain redacted emails he received that the Petitioner tendered as privileged documents and not subject to

disclosure. The undersigned Hearing Officer reviewed the emails in dispute as well as a Privilege Log maintained by ISP. The undersigned made specific rulings with reference to the emails in question and certain emails were deemed privileged and others were ordered to be tendered to the Respondent's counsel.

#### SUMMARY JUDGEMENT (pg.9-15)

In addition the Respondent filed a Motion for Summary Judgement and Memorandum of Law in Support (9/11/15) and subsequently an Amended Motion for Summary Judgement and Memorandum (12/24/15). The Respondent's position was that her treating endocrinologist, Dr. Ilene Yohay sent a letter (6/22/15) to the Illinois State Police Medical Review Board, signed an Affidavit (8/17/15) and gave a deposition (12/1/15) stating that the Respondent was fully capable to perform all duties of an Illinois State Police Officer without any restrictions. The Respondent further states that the Petitioner has the burden of proof in the case, cannot meet their burden without medical testimony, and the Petitioner failed to provide any medical proof to support the theory that the Respondent is unable to perform the job functions of a trooper and is therefore entitled to summary judgement as a matter of law.

The Petitioner filed a Response to Respondent's Motion for Summary Judgement and a Memorandum in Support of their position (1/19/16).

The Petitioner states that the Illinois State Police Merit Board determined that the Respondent cannot perform the essential functions of an ISP Trooper. The Petitioner further claims that the "release" to return full active duty issued by Dr. Yohay was made after the Complaint was filed and made with a lack of knowledge regarding the duties, responsibilities, and conduct of a ISP Trooper. In addition the Respondent's medical diagnosis is "Type I Diabetes; Uncontrolled" and the matter presents triable issues of fact and the Motion of Summary Judgement should be denied.

The parties were given an opportunity to present oral arguments in support of their written pleadings prior to the start of the scheduled hearing.

After a review of the written pleadings, deposition of Dr. Yohay, and the oral arguments of the parties, the Hearing Officer found that a genuine material issue of fact

existed as to whether the Respondent was able to perform the duties of an Illinois State Trooper, which merits an evidentiary hearing, and the Motion for Summary Judgement was therefore denied.

RULE 237-DIRECTOR SCHMITZ (pg. 15-17)

The Respondent filed a 237(b) Notice to Appear (2/24/16) and Amended Notice to Appear (3/9/16) and a Second Amended Notice to Appear (4/14/16) seeking to compel the presence and testimony of a number of witnesses including the Illinois State Police Director Leo Schmitz.

The Petitioner filed an Objection to Respondent's Rule 237 request and Motion to Excuse Director Leo P. Schmitz (4/4/16), the Respondent filed a Memorandum of Law in Response to Petitioner's Objection (4/11/16), and the Petitioner filed a Reply (4/13/16).

The Petitioner claimed that the Director did not have any specific, actual or unique knowledge of the facts in the case that compels his presence and testimony. The Petitioner further stated that there were a number of other witnesses who would testify to the facts and give opinions that had more knowledge of the case than the Director.

The Respondent stated that Director Schmitz made the final decision to charge the Respondent, signed the Complaint, and has unique, specific and actual knowledge of the case. Further the alleged violation is only punishable by up to a three (3) day suspension and the Director is the only person who could seek a disciplinary sanction of termination in this matter, and should be available to testify.

After a review of the pleadings and facts presented, it was the finding of the undersigned Hearing Officer that Director Schmitz did not have any special, actual or unique knowledge of the case. Although the Director signed off on the charge, he was not the Director of the ISP during the investigation and did not make the decision to charge the Respondent. There were other witnesses that could provide more specific testimony and have more detailed knowledge of the case than Director Schmitz. Based



on the foregoing the Petitioner's Objection to Respondent's Rule 237 Request and Motion to Excuse Director Schmitz was granted.

#### AMENDED COMPLAINT

The Petitioner filed a Motion to File an amended Complaint (4/11/16) seeking to add an additional paragraph to the Complaint, and the Respondent objected.

The Petitioner argued that the Illinois Code of Civil Procedure and the Illinois Courts support liberal amendments to pleadings. The Supreme Court has weighed specific factors such as curing a defect, prejudice to a party, and previous opportunities to file in determining whether to allow an amendment. The Petitioner further stated that the amendment did not add any additional charge(s), and that the factual basis for the additional allegation was contained in the documents tendered to the Respondent in discovery.

The Respondent argued that the filing was not timely in that the case was filed in April of 2015, nothing changed, and there was no earlier attempt to file an Amended Complaint even when the case was previously set for hearing before being continued. The Respondent also stated they were previously aware of the facts alleged in the additional paragraph but would be prejudiced if additional witnesses were called to testify in support of the additional allegation.

Given the fact that the Respondent was previously aware of the additional facts, there were no additional or amended charges filed, and no additional witnesses were needed, the undersigned found that the Respondent would not be prejudiced by the filing of the additional paragraph in the Complaint and granted the Petitioners Motion to File Amended Complaint.

## HEARING

The case was continued from time to time by agreement of the parties to address various pre-hearing issues, including discovery matters, scheduling and motions as described in the Pre-Hearing Conference Report and Orders previously filed by the Hearing Officer with the Merit Board.

The evidentiary hearing in the matter was held on April 18, 2016 and June 15, 2016. At the conclusion of the evidentiary portion of the hearing the parties agreed to the following briefing schedule:

July 29, 2016	Petitioner's Brief
August 29, 2016	Respondent's Brief
September 19, 2016	Petitioner's Reply Brief

The briefing schedule was modified due to the filing and disposition of post hearing pleadings as follows:

September 7, 2016	Petitioner's Brief
October 7, 2016	Respondent's Brief
October 21, 2016	Petitioner's Reply Brief

An additional post hearing motion was filed and heard on October 28, 2016 which concluded the proceedings in this matter.

Based on the foregoing the Hearing Officer's Report, including Findings of Fact and Conclusions of Law was to be submitted to the Merit Board by December 13, 2016.

### WITNESSES

The following witnesses testified at the hearing. The page number indicates the start of the testimony in the transcript.

DR. ILENE WEINTRAUB YOHAY (P.29)

JESSICA KIRINCICH (P.126) (P.458)

ROBERT SGAMBELLURI (P.301)

CHRISTOPHER TRAME (P.390)

ROBERT GEMBARA (P.426)

ROBERT MEEDER (P.434)

BRIAN WINDLE (P.612)

DEBORAH SIMENTAL (P.668)

KATHERINE PARMENTER (P.770)

# E X H I B I T S

MARKED REC'D

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## POST HEARING PROCEDURES

### MOTION TO REOPEN PROOFS – FEDERAL CASE

The Petitioner filed a Motion to Reopen Proofs for Purposes of Admitting Federal District Court Judge Matthew Kennelly's July 22, 2016 Order (7/25/16).

The Respondent filed Objections to Petitioner's Motion to Reopen Proofs for Purposes of Admitting Federal District Court Judge Matthew Kennelly's July 22, 2016 Order and Motion for Extension of Time to File Closing Brief (7/29/16).

On July 22, 2016, Federal Judge Matthew Kennelly entered an Order for Summary Judgement in favor of the Respondent in the matter of Jessica Kirincich v Illinois State Police #15C2131. The case was filed by the Respondent in Federal Court who alleged that the ISP violated her rights under the Americans with Disabilities Act by failing to offer her a reasonable accommodation as a state trooper. The federal Order for Summary Judgement came after the close of evidence in the matter before the Merit Board and the Petitioner seeks to make said Order for Summary Judgement part of the record.

The Petitioner claims that the Federal ruling is directly relevant to the case before the Merit Board, and that the respondent cannot claim surprise, or that she was prejudiced by the ruling since the Respondent brought the federal suit.

The Respondent argued that Judge Kennelly's Order was not relevant, did not consider evidence presented at the Merit Board Hearing, and only addressed a limited and specific issue. In addition, the Respondent claimed the evidence in the Merit Board case is closed and that the Respondent would be unfairly prejudiced if the Federal Court Order for Summary Judgement was admitted as part of the record in the case before the Merit Board.

After a review of the pleadings filed by the parties, a review of the case law cited, Judge Kennelly's Memorandum Opinion and Order, and the arguments of counsel, the Petitioner's Motion to Reopen Proofs to Admit the Federal Court Opinion and Order was denied.

The issues, allegations, and factual basis that the Federal Judge considered in granting summary judgement were not based on the same evidence and testimony that was introduced at the Merit Board hearing. Based on the foregoing the Motion to Reopen Proofs was denied.

In addition, the Petitioner's Motion for an Extension of Time to File Closing Brief was granted until September 7, 2016, over objection of the Respondent.

#### MOTION TO STRIKE

The Respondent filed a motion to Strike References to Petitioner's Exhibits #1 and #8 in Petitioner's Closing Argument Brief (9/13/16).

The Respondent objected to any references or argument in the closing briefs regarding Petitioner's Exhibit #1 (Dr. Yohay's deposition) and Exhibit #8 (Dr. Valika's patient notes) in that these exhibits were marked but not submitted into evidence at the hearing.

A review of the record supports the Respondent's position. Petitioner's Exhibits #1 and #8 were not admitted into evidence, are not part of the record, and therefore should not be referenced by either party in their closing briefs.

#### MOTION TO SUPPLEMENT THE RECORD OR, IN THE ALTERNATIVE

##### MOTION TO TAKE JUDICIAL NOTICE

The Petitioner filed a Motion to Supplement the Record, or in the alternative, Motion to Take Judicial Notice (10/25/16).

The Petitioner then filed a Reply in Support of Motion to Supplement the Record (10/25/16).

The Petitioner requested that the Settlement Agreement entered on 10/10/16 in the civil case of Quiggle v Kirincich 13L9593 be made part of the record in this case before the Merit Board. The suit filed against the respondent stemmed from the on duty

traffic accident of 2/28/13 which involved the Respondent and gave rise in part to the charge alleged in the Complaint.

The Petitioner stated that the Quiggle case was referred to in the Respondent's closing brief, and as a party to the litigation the Respondent cannot claim surprise or prejudice. In addition the Petitioner argued that the civil settlement was relevant to concerns of liability raised in the testimony of witnesses at the hearing.

The Respondent claimed that the settlement was not relevant, and will be unfairly prejudicial if admitted into evidence. The Respondent stated further that the parties in the civil suit are not parties in the Merit Board case and that the settlement agreement was intended to be a confidential document. Finally, the Respondent argued that because the Settlement Agreement involved a collateral matter and the Respondent was not able to cross examine the Plaintiffs (Quiggle) at the Merit Board Hearing and asked that the Petitioner's Motion be denied.

After a review of the written pleadings, the Settlement Agreement, and the oral arguments of counsel, the hearing Officer granted the Petitioner's Motion to Supplement the record.

The Respondent could not claim prejudice or surprise in that she was a party to the civil suit and the matter was referenced in the Respondent's closing brief. Further, the Respondent was not prejudiced by not confronting or cross examining the witnesses in the civil case since the Settlement Agreement stated that the Respondent denied all of the allegations, and made no admission of liability or wrongdoing. Finally the Settlement Agreement was relevant to the case before the Merit Board in that it addressed the concern of liability raised by Lt. Col. Trane in his testimony at the Hearing regarding the Respondent's ability to perform the job duties of a trooper.

DIRECT EXAMINATION

Dr. Yohay, M.D. is a board certified endocrinologist (p.30).

She received her medical degree from the University of Pittsburgh and an internship, residency and fellowship in endocrinology at Duke University (p.30).

She is currently employed at Horizon Healthcare and by St. James Diabetes Center (p.30).

Dr. Yohay has been treating the Respondent for type 1 diabetes since 2005 (p.31).

She testified patients with type 1 diabetes require insulin to be able to function (p.31).

Dr. Yohay testified further that the best way to treat this illness is with an insulin pump and sugar sensor (p.32).

The device is worn on the body and changed every couple days and programmed by the patient and physician to treat the diabetes (p.32).

On March 6, 2016 Dr. Yohay learned that the Respondent was involved in a car accident on February 28, 2013.

Dr. Yohay met with a representative of Medtronic the company who administers the pump and adjusted the insulin amount to prevent low blood sugar (p.35).

After the accident, the Respondent requested a letter to the State Police concerning the status of her health (Resp#2)(p.36).

Dr. Yohay wrote that the patient had extremely low blood sugars followed by a motor vehicle accident. She stated further that the Respondent had an excellent understanding of her diabetes, was using a blood glucose sensor at the time of the accident and was being proactive to make sure the problem would not reoccur.

Dr. Yohay also stated there was a possible problem with the insulin pump, and an FDA advisory had been issued on that pump, so a new pump was ordered which the Respondent currently wears (p.39).

The sensor/pump measures blood sugar every 5 minutes, 24 hours a day to regulate blood sugar (p.39).

Dr. Yohay also wrote a letter to the State Police Medical Review Board (Resp#3) dated March 19, 2013 (p.41).

She stated that the vehicle accidents caused by sever low blood sugars are incredibly rare (p.42) and there is a possibility that the pump caused the problem resulting in low blood sugars (p.43).

The Doctor added that the Respondent has not had any problems since the pump was replaced (p.43).

Dr. Yohay also stated that the Respondent's medical condition did not affect her ability to perform all other duties and should have no impact on her work status (p.44).

The witness stated the Respondent was accepted as a trooper with a known diagnosis of type 1 diabetes and nothing has changed to stop her from doing her job (p.44).

After the accident the Respondent called the doctor on a regular basis to discuss her blood sugars and has had no subsequent problems (p.47).

Dr. Yohay met with the Respondent on May 6, 2013, her blood sugars were under control, her diabetes was no different than it was when she started as a trooper, and she could go back to doing exactly what she was doing before (p.50).

The witness testified further she has never known the Respondent to have any loss of consciousness including the date of the accident February 28, 2013 (p.52).

She sent another letter to the Medical Review Board dated November 26, 2013 (Resp#4) asking the Board to reconsider reinstating the Respondent as a trooper, and

that she was in the same shape as when she initially was accepted and started as a trooper with diabetes (p.56).

The letter also stated the Respondent could perform her patrol duties if assigned to a day shift, because shift work makes testing diabetes a little more complicated (p.56).

She stated diabetics can do shift work, that the Respondent was accepted as a diabetic, and was no different than when first accepted and could do shift work (p.57-58).

The Respondent met with the witness on January 20 and May 16, 2015 and the doctor felt she (Respondent) was good to return to full-duty status as when she first became a trooper without any restrictions (p.64-65).

The witness identified another letter she wrote to the Medical Review Board (Resp#5) dated June 22, 2015 (p.66).

The Doctor felt the Respondent was fully capable to perform all duties of a State Trooper with no restrictions and could do the same job she could do in the beginning with no restrictions; nothing had changed; she had one rare event (p.67-68).

Dr. Yohay prepared and signed an affidavit dated August 17, 2015 stating that the incident (accident) wherein her glucose levels dropped may have been due to a malfunction in her insulin pump (p.69) after having learned of the FDA recall of the pump at a deposition.

The witness also saw the Respondent on August 25, 2015 and continues to see her every three to four months and that nothing has changed and the Respondent does a great job taking care of her diabetes (p.71).

The doctor also reviewed the "Illinois State Police Sworn Job Description" (Resp#7) and stated that the Respondent did her job before the car accident, and can do it after the accident (p.73) and was surprised that the State was unwilling to return her to work as a full-duty status since they initially accepted her with the known risks of

diabetes (p.73) and in her experience, it's unlikely the Respondent would have another accident due to severe low blood sugar (p.74).

#### CROSS EXAMINATION

Dr. Yohay stated she believed patients with diabetes have a risk of low blood sugars, and should be allowed to do the same job they did when they were accepted in that profession (p.75).

The witness wrote the letter dated March 15, 2013 (Resp#2) and did not know where it went, and she probably gave it to Respondent (p.87).

Dr. Yohay also wrote the letter dated March 19, 2013 (Resp#3) and believed it was mailed to the "Department by her secretary", but could have given it to the Respondent instead (p.88).

The same for the letter dated June 22, 2015 (Resp#5).

Dr. Yohay was not aware of a diabetic incident that the Respondent had on December 28, 2012 prior to the accident of February 28, 2013 (p.101) or any other incidents due to low blood sugar (p.102).

The witness described a severe low blood sugar incident is when you require someone to help you treat your low blood sugar (p.107).

If the paramedics had to treat the patient it can be considered a severe hypoglycemic event (p.108).

She stated further that if the patient had three unexplained severe lows that required help, she would want to know (p.109).

Dr. Yohay stated that she released the Respondent to full duty, to do everything that she did before the accident (p.109).

#### RE-DIRECT

It was Dr. Yohay's opinion based on a review of the requirements and duties of a State Trooper, and her two years as a trooper that she can return to full duty without any restrictions and work any shift with the State Police (p.117).

JESSICA KIRINCICH (pg.126-298)

DIRECT EXAMINATION

Ms. Kirincich stated she has had diabetes since she was 8, and was admitted to the Illinois State Police with knowledge of her diabetes in August of 2011.

She treated her diabetes with an insulin pump (p.127).

While on duty she would check her blood sugar multiple times a day throughout her shift (p.129).

The Respondent stated she tried to submit a letter (not sure if Resp#2 or #3) from Dr. Yohay while at the Medical Review Board but they would not accept it (p.131).

She could not say for sure if any of Dr. Yohay's letters were received by the Medical Review Board (p.133).

The Respondent stated she never suffered from an episode of unconsciousness while under Dr. Yohay's care (p.134) and feels that her diabetes is well controlled (p.135).

She described her insulin pump as a "pager" that she wears on her waist, and a catheter tube with a reservoir of insulin is in it and is programmed to release insulin as needed (p.139).

She has never been diagnosed as having hypoglycemic unawareness by anyone (p.142).

In 2013 she was assigned to District 2 from the time she graduated from the academy to the February 2013 crash (p.144) where she worked all shifts including midnights (p.145) and extra work such as hireback, Federal details, roadside safety and overtime (p.147).

She would keep snacks and juice in her squad to eat when her blood sugar was low (p.150)).



The first thing she remembers about the crash on February 27, 2013 was speaking with the paramedics in her car at the scene of the crash (p.153-154).

She hit her knee, elbows, and arms, does not know what she told the paramedics and was transported to Central DuPage hospital (p.155-156) but not admitted.

She started her shift at 10:00p.m. on February 27, 2013 and tested her blood sugar levels throughout her shift (p.157-158).

The Respondent had no recollection of the crash but was told by the paramedics that she had low blood sugar (p.159).

She was aware of injuries to civilians as a result of the crash including a person name Quiggle (p.164) which resulted in a civil lawsuit (Pet#4) and settlement (Motion to Supplement Evidence).

Sometime after the crash she saw a Dr. Mary Connolly who she had seen once before as a follow up (p.173) after the accident to make sure she had no broken bones or injuries as part of a workers Compensation claim (p.178).

Dr. Connolly released the Respondent to return to work (p.179) and submitted a letter (Pet#5) stating the Respondent was released to "a trial of full duty" but never gave a copy to Ms. Kirincich (p.186).

On December 28, 2012 the Respondent testified she had just finished her shift, was sleeping and received a call from her mother (p.189). Her mother called her sister, (also a State Trooper) who called the paramedics who picked the lock and entered her home (p.191-192).

The paramedics gave her Dextrose for low blood sugar and she further states she was not unresponsive, did not need to be resuscitated, and could have treated her hypoglycemic state with juice or a cracker (p.193-194).

The Respondent received a letter (Pet#6) dated March 11, 2013 regarding a meeting of the Medical Review Board (p.202) scheduled for March 30, 2013 which she attended (p.204).

She told the MRB she was cleared by her doctor (Yohay) and tried to submit Dr. Yohay's letter but the MRB refused to accept it (p.207). The MRB did not ask her any questions and the Respondent was not allowed to ask any questions (p.208).

She subsequently received a letter dated April 9, 2013 (Pet#7) from Colonel Abbot referring her to a Dr. Valika for an independent medical evaluation (p.210-211).

The Respondent saw Dr. Valika who evaluated her, and referred her back to her treating physician (Dr. Yohay)(p.212) and does not recall telling him that she had a prior severe hypoglycemic incident while sleeping (p.215).

The Respondent subsequently received a letter dated September 19, 2013 from Colonel Marc Maton (Pet#9) stating she would not be reinstated because her doctor (Connolly) submitted a release for a "trial of full duty" which the MRB concluded was not a release to full duty (p.217).

The Respondent disagreed with the findings in that she never discussed her diabetes with Dr. Connolly, only whether she had anything broken (p.218).

The letter (Pet#9) gave the Respondent until October 18, 2013 to either request a vocational reassignment or resign her position with the State Police (p.219).

She had a telephone conference regarding the reasonable accommodation process with her lawyer, Master Sgt. Christy White and Lt. Sgambelluri on November 5, 2013 (p.223-224).

In addition she attended a meeting at District 2 with Lt. Sgambelluri, Jennifer Grady-Paswater and Captain Ruggio regarding the reasonable accommodation process (p.224-225) and was told to submit a reasonable accommodation form.

The Respondent submitted a reasonable accommodation request (Pet#11) dated November 19, 2013 wherein she requested a patrol change to the day shift and stated "night shift causes my blood sugar levels to become unstable and lead to complication for my diabetes and the endocrinologist advised me working exclusively on a day shift would alleviate the possibility that my blood sugar levels will become unbalanced" (p.227-228).

The witness received a letter dated December 3, 2013 from Lt. Sgambelluri (Pet#12) seeking clarification of the Respondent's request for a change of patrol and not wanting a nonsworn position (p.230); a change of patrol was not being offered to the Respondent (p.231).

The Respondent then received another letter dated December 9, 2013 from Lt. Sgambelluri (Pet#13) denying her request for a reasonable accommodation to a sworn position on the day shift (p.233-234).

A letter dated December 6, 2013 (Pet#14) was sent from Respondent's attorney to Lt. Sgambelluri stating Sr. Connolly was not her doctor and contested Dr. Connolly's letter of "trial release to full duty" (p.240-241).

A letter dated December 4, 2014 (Pet #15) was received by the Respondent offering her a truck weighing inspector position as part of the reasonable accommodation process (p.248-249).

The Respondent then received a letter dated December 18, 2014 (Pet#16) from Colonel Zerbonia offering her a job as a Guard II, or truck weighing inspector (p.250-251) at less salary than a trooper.

The Respondent then submitted a letter dated December 26, 2014 (Pet#17) to the State Police accepting the truck weighing inspector position but still claiming that it was her Doctor's (Yohay) position that she could perform all of the functions of a sworn Illinois Trooper (P.253-254).

On January 9, 2015 the Respondent received a letter (Pet#18) from Colonel Zerbonia notifying her that she must fill out and return the OAR and PAR forms necessary to start her inspector position (p.255-256).

The Respondent through her attorney responded in a letter dated January 15, 2015 (Pet#19) by submitting a signed copy of the OAR and PAR but scratched out the box marked "resignation" (p.260-261) and wrote "she is not resigning" (p.262).

During the accommodation process she was under the belief that she was taking a nonsworn position, but not losing her sworn authority, and was accepting a lateral

position until her case was resolved, and still keep her pension, and still keep her rank as a trooper (p.263).

During the conference call of November 5<sup>th</sup> it was not explained to her that she would have to resign (p.264).

The Respondent recalls receiving letters on January 27, 2015 (Pet#21) and a letter dated February 9, 2015 (Pet#22) from Colonel Zerbonia regarding alternative job placement.

She was offered a position as a criminal intelligence analyst but never went to work at any of the accommodation positions offered (p.275).

The Respondent also identified a letter dated February 17, 2015 (Pet#23) from Director Schmitz placing her on administrative leave of absence (p.279). This letter was a result of the Respondent refusing to sign resignation documents after being told to do so in a meeting on February 11, 2015 (p.280-281).

The Respondent then reviewed the video of the dash camera from her squad depicting her driving at the time of the accident on February 28, 2013 (p.292).

The Respondent admitted she obeyed some traffic signals but not others (p.293), was driving between lanes (p.294), struck at least one vehicle without stopping (p.294), and would not confirm she struck multiple vehicles at Geneva Road and Gary Avenue before coming to a stop (p.295), and does not recall that the accident occurred around 8:00a.m. on February 28, 2013 (p.296).

The dash cam video was marked as Pet #24.

When asked by the Hearing Officer if the video depicts what happened the Respondent stated she had no recollection of the actual crash (p.298).

ROBERT SGAMBELLURI

Robert Sgambelluri is a retired (2014) lieutenant for the State Police (p.301).

When he retired he was the Chief of the EEO Office (Equal Employment Opportunity) for the Illinois State Police (p.302).

He attended the State Police MRB meetings in an advisory role when the Respondent's case was discussed (p.304).

He was also involved in the reasonable accommodation process regarding the Respondent (p.305).

The witness had no recollection of the Respondent attempting to present evidence to the Medical Review Board that was not accepted (p.307).

It is the MRBs practice to accept documents from individuals who appear before the Board (p.308).

The witness identified Pet#25 which was the MRB recommendation that the Respondent receive an independent medical evaluation (p.319) and does not believe she went for the medical evaluation (p.319).

He recalls the MRB recommendation that the Respondent not be allowed to return to duty (p.320).

The witness recalls the Board considering Dr. Connolly's letter where the Respondent was recommended for "trial of full duty" (p.324), reviewed the dash cam video and other documents in making their recommendation (p.325)

He recalls having a conversation on November 5, 2013 with the Respondent regarding the reasonable accommodation process (p.332)(Pet#28).

The witness reviewed and denied the Respondent's request for a transfer to the day shift as part of the reasonable accommodation process because trooper's duties and responsibilities extend beyond any specific shift (p.338-339).

The only letter from Dr. Yohay (Pet#4) he recalls receiving was dated December 2, 2013 and requested that the Respondent be transferred to the day shift (p.354). He did not recall any other letters from Dr. Yohay on behalf of the Respondent (p.354-355).

### CROSS-EXAMINATION

The witness stated the only two letters received and considered by the MRB were Dr. Connolly's letter authorizing a "trial of full duty" and Dr. Yohay's one letter approving a return to the day shift (p.372).

### CHRISTOPHER TRAME(pg.390-425)

#### DIRECT EXAMINATION

Christopher Trame has been a sworn officer in the State Police for over 20 years and holds the rank of Lieutenant Colonel (p.391).

He has worked in the Division of Operations for 17 years and is familiar with the job description of a trooper (p.391-382).

He identified Pet#7, the sworn job description for troopers and has years of practical knowledge and experience of what it means to be a trooper (p.392-393).

The witness was "vaguely familiar" with the Respondent's case and it was his understanding that she had two medical issues, one in 2012 when her sister contacted the State Police for medical assistance, and the other was an on duty crash in 2013 (p.394-395).

He was aware that Respondent was not able to work the night shift (p.395) which is an unreasonable request (p.396) when there are incidents that occur on all shifts (p.397) and was not aware of any officers allowed to work during the day (p.401).

Lt. Col. Trame reviewed the video of the Respondent's crash, found it "very very alarming" and is of concern for potential issues in the future for liability and trooper safety (p.402-403).

### CROSS-EXAMINATION

The witness has no independent knowledge of what allegedly occurred in December 2012 regarding a diabetic emergency other than what was stated in the Amended Complaint (p.406-407).

His knowledge of the February 2013 accident involving the Respondent came from a review of the video and Amended Complaint (p.407).

The witness was aware that the State Police were seeking termination of the Respondent's employment after reasonable accommodations failed (p.408).

He was not aware of a June 2015 letter from the Respondent's doctor that she could work her full duties without restrictions (p.409).

The witness stated that if the past is any indicator of the future he had concerns of her working any shift for her safety, as well as the Department's liability (p.410).

He had no knowledge of why the Department is seeking the Respondent's termination on a Level I offense (p.413).

The witness stated that not all officers involved in traffic accidents were removed from employment with the State Police (p.417-418).

ROBERT GEMBARA(pg.426-433)

DIRECT EXAMINATION

Robert Gembara has been employed by the Illinois State Police for 20 years and holds the rank of Lieutenant (p.426) and is Commander of the State Police SWAT team (p.427).

He was a Lieutenant in District 15 when the Respondent was working light duty (p.427).

He identified the Respondent's job performance evaluation (Resp#10) for 2014 which contained the same ratings as the prior year due to the light duty status (p.429).

The witness read the supervisor's remarks about the Respondent's performance which state in part the Respondent has excellent enforcement activity, works well without supervision, communicates well, reports are well written, and is able to make appropriate decisions with only occasional supervisory guidance (p.431).

ROBERT MEEDER(pg.434-456)

DIRECT EXAMINATION

Robert Meeder has been employed with the State Police since 1995 and holds the rank of Captain and has been assigned to District 15 his entire career (p.434) where he is now the Commander (p.435).

He met the Respondent in January 2014 when she was transferred to District 15 to do administrative staff work (p.435).

He acted as a middleman between the Division of Operations and the Respondent (p.441) and presented the Respondent with an OAR form and advised her that if she did not sign the form, and accept the criminal intelligence analyst position she would be placed on administrative leave without pay (p.443) and she declined to sign the form (p.445).

The witness was aware that the criminal intelligence analyst position was a code position, offered less pay, and was not part of the ISP pension program (p.444).

CROSS EXAMINATION

When the witness met with the Respondent on February 11, 2015 to discuss the OAR he never told her she could not leave the office until she signed the forms, never prevented her from leaving, and never told her he would not get her a ride home until she signed (p.449-450).

JESSICA KIRINCICH(pg.458-596)

DIRECT EXAMINATION

The Respondent was called as a witness by Mr. Studach and testified that she is 30 years old, has a Bachelor of Science degree in psychology and previously worked in pharmaceutical sales, and for an engineering design firm before starting with the State Police in 2011 (p.459).



When she applied for employment with the State Police she told them she was a type 1 diabetic, insulin dependent, and used an insulin pump (p.460).

She was initially told she could not use the insulin pump at the academy, but that position changed and she wore the insulin pump during training (p.461).

She was diagnosed as a diabetic at age 8 (p.462) and started seeing her endocrinologist Dr. Yohay in high school (p.463).

She played college basketball and softball while continuously wearing an insulin pump (p.465).

In addition to the insulin pump and sensor she checks her blood sugar twice a day through a finger stick (p.468).

She has worn an insulin pump for about 10 years and it gets changed about every 4 years, or sooner, if there is new technology or a problem with the pump (p.475).

The pump she was wearing at the time of the accident in February of 2013 was recalled by the manufacturer due to malfunction (p.476).

With regard to the December 2012 occurrence, the Respondent stated she had worked long hours, received a call from her mother while sleeping, and was quite groggy on the phone. Her mother called her sister (also a State Trooper) to have someone check on the Respondent (p.478).

Paramedics and State Police responded and the Respondent was given Dextrose through an IV (p.479).

She claims she never lost consciousness and was not transported to the hospital (p.480).

At no time until the crash did the State Police put any restrictions on her based upon her diabetes (p.482).

On the day of the crash, February 28, 2013, the respondent was scheduled to work from 10:00p.m. (2/27/13) until 8:00a.m. (p.483).

The accident occurred close to the end of her shift at about 7:30 or 7:45 (p.483).

The last thing she remembers was stopping at a gas station (p.484) and does not remember anything about the collisions she was involved in that day (p.488).

After the accident she saw Dr. Connolly for a follow up at the instruction of the ER doctor to make sure nothing more was wrong (p.495).

She chose Dr. Connolly because she had seen her once before and was familiar with her (p.496).

The Respondent never asked Dr. Connolly for any type of release or any documentation to the Department concerning her return to work (p.498) and never saw the Doctor's letter (Pet#5) allowing for a return of "a trial of full duty" until the case began (p.499).

She attended one Medical Review Board meeting and tried to submit documentation from Dr. Yohay (p.501) and was told by Lt. Col. Abbott of the MRB they would not accept any documentation from the Respondent and would let her know if they wanted anything from her (p.503).

She attended an independent medical evaluation with Dr. Valika who told her he was going to defer treatment to her endocrinologist (Yohay) who he stated was doing a good job (p.506).

She received a letter dated (Pet#9) September 19, 2013 that her request for reinstatement was denied and could request vocational reassignment or resign (p.510).

She believed at the time she was completely fine and able to go back as a trooper (p.511).

The request for a transfer to the day shift was her attorney's idea as a reasonable accommodation (p.517) but the Respondent stated Dr. Yohay felt she was capable of working any shift (p.518).

The Respondent was aware of other troopers who also had type 1 diabetes (p.521-524).

The Respondent was put on administrative leave with pay (letter of January 9, 2014) (Resp#16)(p.529) until she was informed by Cpt. Meeder that she was being put on dock status (no pay) after that (p.531).

The Respondent received a letter of reprimand dated October 3, 2014 from Cpt. Windle (Resp#17) for her accident on February 28, 2013 (p.533) and she considered the matter over (p.534).

The Respondent then received a letter dated October 16, 2014 from (Pet#18) Cpt. Windle stating she was being suspended for 2 days for a violation of the same Rule of Conduct and factual allegations (p.535).

In a letter dated December 18, 2014 from Col. Zerbonia (Pet#16) the Respondent was offered 2 positions, either Guard II or truck weighing inspector.

It was never explained to her she would have to resign, lose her trooper's pay and lose her potential trooper pension (p.538).

The Respondent stated they made it clear she would be terminated if she didn't accept one of the positions (p.538).

She chose one of the jobs because she thought there were ongoing negotiations to get her job back and this would not be permanent (p.539).

The Respondent states it was never discussed that the job was contingent on her resignation (p.544).

She was told she must sign an OAR and PAR or the department will consider it a declination of the job offer and withdraw from the reasonable accommodation process (p.545).

The Respondent ultimately signed the OAR and PAR (Pet#19), but deleted any reference to resignation on the forms (p.546-548).

She had a meeting with Captain Meeder on February 11, 2015 who told her she had to sign an OAR and PAR resigning her position to take a job as the criminal

investigation analyst. She refused to sign it, and felt she could not leave the room otherwise she would be deemed insubordinate to a superior officer (p.554-555).

After the meeting, the Respondent was placed on leave of absence without pay (p.555).

The Respondent currently works for American Charter Bank as an Assistant Branch Manager (p.556).

The Respondent states that Dr. Yohay changed her insulin pump after the accident because there was a recall on the pump she was wearing at the time of the crash (p.557).

She sees Dr. Yohay every 3 or 4 months for a regular office visit, (p.557) and continues to drive and has not had any driving problems since the accident of February 28, 2013, and would have no problems driving as a trooper, since her diabetes is under control (p.558-559).

The Respondent was shown her job performance evaluations and promotional skills evaluations (Resp#10). In October of 2012 she received meets expectations in 12 categories and one exceeds expectations in traffic enforcement (p.562)..

In the May 2013 evaluations she received skilled rating in all categories and has never had any supervisor instruct her that she needed improvement in any aspect of work (p.565).

The Respondent was very surprised when she learned the Department was seeking her termination on an alleged Level 1 offense, which is punishable by a reprimand up to three days (p.570).

The Respondent does not believe she violated ROC'A.12. as charged in the Complaint in that she performed the duties assigned to her as a trooper at all times (p.572) and specifically denied she violated any of the charges alleged in the Complaint (p.575-576).

The Respondent believes the allegation in the Complaint is that her diabetes renders her unable to perform her job as a trooper and that the Department has not given her any medical evidence to support the allegation (p.577).

#### CROSS EXAMINATION

The Respondent did not know if her sensor was alerting her that her blood sugar was low on the day of the crash in February 2013 (p.583).

The Respondent did not file an appeal of the Medical Review Boards decision within ten calendar days as described in PER-038 of the Illinois State Police Policy (Pet#32)(p.590-592).

#### BRIAN WINDLE(pg.612-668)

#### DIRECT EXAMINATION

Brian Windle has been employed by the ISP for almost 27 years and currently holds the rank of Captain (p.612).

In December 2012 he was the operations lieutenant in District 2 (p.613).

The witness was on duty at District 2 headquarters the morning of the crash involving the Respondent, and upon receiving notice of the accident drove to the scene (p.615-616).

When he arrived the people involved in the crash had been transported to hospitals and the scene was "pretty chaotic" with several police agencies, ambulances, and emergency personnel on the scene (p.617). He observed the Respondent's squad car had severe damage in the front and was not drivable (p.618).

The witness stated the Respondent was involved in another crash in the same incident prior to the crash he responded to (p.619) and did not pull over after striking the initial vehicle (p.620).

Captain Windle then went to Central DuPage Hospital with Lt. Kraft and spoke to the Respondent in the emergency room (p.623-624).

He stated she was alert, awake, and very apologetic, and could not remember much of what happened at the accidents (p.624).

The witness then spoke to paramedics who advised him when they arrived at the scene of the crash, the Respondent was in her squad car "comatose" and they saw the insulin pump, started pumping manually and the Respondent started to come to.

Captain Windle also testified to an incident in late 2012 where the Respondent was off duty and experienced a diabetic episode in her home (p.628) and the Lisle Fire Department administered treatment to the Respondent upon arrival (p.631)(Resp#33).

After the February 28, 2013 crash, and December 12, 2012 incident in the Respondent's home Captain Windle requested a Medical Review Board hearing through the chain of command (p.631-632)(Pet#34).

The witness identified disciplinary letters given to the Respondent (Resp#17,#18)(p.636).

The first letter (Resp#17) dated October 3, 2014, was a written letter of reprimand to the Respondent for the first crash in Glen Ellyn on February 28, 2013 (p.637).

The second letter (Resp#18) dated October 16, 2014 was a one day suspension for the second crash on Wheaton on February 28, 2013 (p.637).

#### CROSS EXAMINATION

The witness stated he was in the Respondent's chain of command when she was assigned to District 2 (p.639).

He described her as "a real good trooper, very aggressive. She worked hard." (p.639).

Capt. Windle testified that from the time the Respondent was assigned to District 2 until the accident of 2013, she was adequately performing her job even with the type 1 diabetes (p.646).

The witness was aware of other preventable accidents caused by troopers, resulting in personal injuries to citizens, and none of the troopers were terminated that he knows of (p.661).

DEBORAH SIMENTAL(pg.668-768)

DIRECT EXAMINATION

Deborah Simental has worked for the ISP for over 25 years and holds the rank of Colonel, and is assigned to the Division of Internal Investigation (DII)(p.669).

She has been a voting member of the Medical Review Board (MRB) since becoming Colonel in January of 2014 (p.670).

The Respondent's case was already pending before the MRB when she joined the Board (p.671).

She recalls that the first time she heard the Respondent's case before the Board, it was in the reasonable accommodation process and the Board had previously found that the Respondent was unable to perform the functions of a trooper (p.671).

The Colonel stated she has attended at least 20 MRB meetings and has never seen the Board refuse to accept information that an employee is trying to provide (p.672).

She has seen the MRB accept information from an employee which becomes part of the MRB file kept by Kathy Parmenter (p.672-673).

After the MRB made the determination that the Respondent was unable to perform the essential functions of a trooper the case moved to the EEO for the reasonable accommodation process to identify civilian code positions available for the Respondent (p.674).

The Respondent was offered one of three positions, truck weight inspector, guard II and a criminal intelligence analyst job which actually paid more than the Respondent's salary as a trooper at that time (p.676).

The witness stated the Respondent accepted the criminal analyst position but never took the job since the Respondent refused to resign and submit OAR and PAR forms.

Col. Simental testified a letter (Pet#23) was sent to the Respondent stating by refusing to sign the documentation, that terminated the reasonable accommodation process, and the Department would then seek her termination (p.678).

The case was then sent to the Division of Internal Investigation (DII) to initiate the termination process (p.679) and a Complaint Against Department Member Form (CADMF) (Pet#35) was filed and a Disciplinary Review Board case was filed against the Respondent (p.680).

When the DII received the file from the MRB they did not conduct any additional investigation because everything they needed for the case to move forward was contained in the MRB file(p.681-682).

The parties then had a discussion about a prior Merit Board case involving Trooper Jackson (Pet#36) and agreed that the Merit Board is the only entity which has the authority to terminate a State Police Officer (p.686-689).

The Colonel stated she was present at the meeting when the Disciplinary Review Board voted to terminate the Respondent (p.690).

The witness reviewed the dash cam videos and the Rules of Conduct III.A.12 that the Respondent is alleged to have violated (p.692).

She testified that the Trooper is not alleged to be incompetent, or unwilling to perform job assignments, but is unable to perform the essential functions of a trooper based upon the job specifications including shift work, call out on emergencies and overtime (p.694-695).



The witness reviewed the Respondent's letter (Pet#11) requesting a "patrol changed to a day shift" and found it concerning because troopers are expected to work any shift, and in her 26 years with ISP was not aware of any sworn officer being approved to work exclusively on one shift (p.696-697).

Col. Simental also reviewed the reports and emails with regard to the December 28, 2012 incident in the Respondent's home when the paramedics treated the Respondent for low blood sugar levels (p.696).

The witness also viewed the dash cam videos of both crashes on February 28, 2013 and described it as "one of the most distressing videos that I've watched in my career" (p.702).

She described the Respondent's erratic driving including speeding, driving into oncoming traffic, driving on curbs, straddling lanes and two separate accidents (p.701-702).

The witness identified letters from Dr. Yohay dated March 15, 2013 (Resp#2), and March 19, 2013 (Resp#3) and stated she had not seen the letters before and to the best of her knowledge were not part of the MRB file (p.714-715).

The witness stated further that if Dr. Yohay stated the Respondent was fully released it would not change her opinion that the Respondent cannot perform the essential functions of a trooper (p.717).

#### CROSS EXAMINATION

The witness was not aware of any criticism of the Respondent's work performance prior to the accident of February 23, 2013 (p.733).

Col. Simental stated the Rule of Conduct charged was the most appropriate for this particular matter and this was not a disciplinary issue regarding the Respondent's conduct, but was about her ability to perform the essential functions of a trooper (p.744).

The witness agreed that if a trooper was involved in a preventable accident where members of the public were injured there is probably going to be discipline but not necessarily termination (p.752).

KATHERINE PARMENTER(pg.770-852)

DIRECT EXAMINATION

Katherine Parmenter has been employed by the ISP for 38 years and is currently Chief of the Office of Human Resources (p.771).

She has served as Chief and Assistant Bureau Chief for 20 years (p.771).

She is not a member of the MRB but serves as an advisor to the MRB on human resource issues (p.772) and has been attending MRB meetings since it was reinstituted in 1999 (p.772).

Her office is the keeper of the records for the MRB, and when they receive a document, it is stamped and placed in the file for that particular case to be shared with the members of the Board (p.774-775).

The witness recalls being present at the March 23, 2013 meeting that the Respondent attended (p.776).

Ms. Parmenter stated that the Respondent spoke at the meeting but did not present any information or documents to the MRB (p.776).

She testified further that the MRB has never refused to accept information from an employee (p.778).

The witness stated Dr. Connolly's letter (Pet#5) was received and made part of the Respondent's MRB file (p.779).

She was shown Dr. Yohay's letters of March 15, 2013 (Resp#2), March 19, 2013 (Resp#3), November 26, 2013 (Resp#4) and June 22, 2015 (Resp#5) and stated she had not seen them before and were not submitted or made part of the Respondent's MRB file (p.783-786).

The witness was aware that one of the letters regarding a reasonable accommodation to the day shift was received by the EEO office (p.785).

She stated the Respondent was sent to Dr. Valika for an independent medical evaluation, but he did not provide any information on the form as requested (p.788).

After the MRB made the determination that the Respondent was unable to perform the essential functions of a trooper she was sent a letter (Pet#9) with the option to resign or elect for reasonable accommodation to a code or nonsworn position (p.791).

Ms. Parmenter's role in the reasonable accommodation process is to locate nonsworn "code" vacancies that do not have to be bid on under the bargaining unit contracts (p.792-793).

She met with the Respondent on September 19, 2013 in Elgin along with Lt. Sgambelluri, Captain Riggio, Jennifer Grady-Paswater and the Respondent's attorney Joe Mazzone to deliver a copy of the MRB letter (Pet#9) to the Respondent and answer any questions (p.799).

The witness was able to identify code positions for the Respondent, Guard II, truck weighing inspector and eventually a criminal intelligence analyst position (p.800).

#### CROSS EXAMINATION

The witness stated she was present at the MRB meeting of March 20, 2013, but did not know if the Respondent ever tried to give Lt. Col. Abbott any documents, because she was not with Lt. Col. Abbot the entire time (p.813-814).

She testified further that it would be hard to believe that if he (Abbott) received any documents that he would not give them to the MRB coordinator to make copies for the Board or put in the Respondent's file (p.815).

The witness also stated that Respondent's Exhibits 3, 4, and 5 are not in the Respondent's MRB file, but if they were sent to another department she would not know (p.822).

Ms. Parmenter stated that Dr. Connolly's letter was received by the MRB from the worker's comp coordinator, not the Respondent (p.832).

She stated the fact that the Respondent was offered a code (nonsworn) position before signing the OAR and PAR to resign as a trooper is the normal process for the Department (p.844).

The transcript of the hearing including the complete testimony of all witnesses and introduction of exhibits is attached hereto and made a part of the record in this matter.

### GENERAL FINDINGS OF FACT

As previously stated the Respondent is charged in a one count Complaint (amended) alleging a violation of Rules of Conduct, Paragraph III.A.12 . It is alleged that the Respondent is unable to perform the essential functions of an Illinois State Trooper and specifically that she is unable to control her diabetes so as to be able to perform the duties and responsibilities of the job as a State Trooper.

The Respondent, Jessica Kirincich, has been employed as an Illinois State Police Officer since August of 2011.

She was assigned to District 2 as a trooper for all of her active duty.

The Respondent is a type 1 diabetic having been diagnosed with diabetes at 8 years old.

She has been under the care of an endocrinologist, Dr. Ilene Weintraub Yohay since she was 16 years old.

The Respondent receives insulin through the use of an insulin pump and sensor which she wears at all times. The sensor monitors her blood sugar and the pump delivers insulin to raise any low blood sugar levels she may be experiencing.

Ms. Kirincich was hired by the State Police with full knowledge of her diabetes and use of an insulin pump and sensor.

On February 28, 2013 the Respondent was assigned patrol on the night shift from 10:00p.m. to 8:00a.m.

At approximately 7:45a.m. near the end of her shift several calls were received by District 2 and Ducomm regarding an ISP squad car driving erratically all over the road westbound on Geneva Road near Wheaton.

The license plate given was the Respondent's vehicle and attempts to contact her were unsuccessful.

It was reported that the Respondent's squad car struck a vehicle (twice) while westbound on Geneva Road, and did not stop to render assistance.

The Respondent's squad car continued westbound on Geneva and crashed into a number of cars waiting at a red light at the intersection of Geneva Road and Gary Avenue.

The accident resulted in a number of serious injuries to civilians including that of Emily Quiggle which resulted in a civil lawsuit that was recently settled without fault for \$1,700,000.00.

Paramedics, and first responders from a number of municipalities arrived on the scene to render assistance.

The Respondent was found unresponsive in her squad car by the paramedics who described her as "somewhat comatose" staring straight ahead when they arrived.

The paramedics determined she was hypoglycemic, saw her insulin pump on her person, and manually pumped insulin into Trooper Kirincich to raise her blood sugar.

The Respondent became somewhat agitated with the paramedics and thought they were trying to get her gun.

Trooper Kirincich was transported by ambulance to Central DuPage Hospital for further evaluation and was stabilized and subsequently released without being admitted.

Captain Windle responded to the crash scene and described it as "pretty chaotic" with several police agencies and emergency personnel present. He stated the injured people including the Respondent had been transported from the scene by the time he arrived. He observed severe damage to the front end of the Respondent's squad car and described it as undriveable.

Captain Windle with Lt. Kraft went to Central DuPage Hospital and spoke with the Respondent in the emergency room. The Respondent was alert, awake, apologetic and had no recollection of what happened before or during the accidents.

The dashcam video from the Respondent's vehicle was shown at the hearing and admitted into evidence as Pet#24.

The video is quite graphic, very disturbing and must be viewed by the Merit Board.

Lt. Col. Trame a 17 year veteran of the Division of Operations described the video as "very very alarming".

Colonel Simental a 25 year member of the State Police and head of the Division of Internal Investigation also viewed the dashcam video of the crashes and described it as "one of the most distressing videos that I've watched in my career".

The Respondent viewed the video as well and acknowledged her erratic driving, a number of traffic violations, and the two separate accidents, and that she was hypoglycemic and had low blood sugar at the time of the crashes.

The Respondent was placed on restricted duty and taken off patrol as a result of the incident.

A previous incident involving the Respondent becoming hypoglycemic was alleged in the Amended Complaint as well. On the morning of December 28, 2012 the Respondent had just finished a long shift and was asleep at her residence when her mother called.

The Respondent's mother became concerned about the way the Respondent was speaking, thought she was having a diabetic reaction and called the Respondent's sister who is also a State Trooper. The Respondent's sister called District 2 who called the Lisle Fire Department who then responded to Trooper Kirincich's home along with Lt. Kraft of the ISP.

The paramedics got into the residence, found the Respondent in bed and semi-conscious and administered treatment, including an IV for low blood sugar. The Respondent regained her composure and no further treatment or medical assistance was given.

The Respondent stated that she never lost consciousness and was just sleepy and groggy from a long shift, and that her mother overreacted. She stated she did not

require medical assistance and could have addressed any low blood sugar levels on her own.

After the December 12, 2012 incident in the Respondent's home, and the February 28, 2013 crashes Captain Windle requested a Medical Review Board (MRB) Hearing through the chain of command.

The Medical Review Board reviews an employee's case subsequent to medical related issues and makes a determination and recommendation to the Director regarding the employee's work status.

Trooper Kirincich's case was presented to the MRB on March 20, 2013. The Respondent was given notice to appear and invited to address the MRB and present any documents or exhibits relative to her case.

The Respondent attended the MRB meeting and addressed the Board. She claimed she attempted to submit a letter from her endocrinologist, Dr. Yohay, but was refused by the Acting Board Chairman Colonel Scott Abbott. The Respondent also stated she was told she could not submit any information to the Board and they would contact her if they needed additional information from her.

Kathy Parmenter, Chief of Human Resources attends most of the MRB meetings and recalls being present at the Board meeting when the Respondent's case was presented. She stated that the Respondent did not present any written documentation to the Board and no one refused to accept any information from Trooper Kirincich, and that "the Board has never refused to receive information from an employee".

Lt. Sgambelluri was also present at the MRB meeting when the Respondent appeared and no recollection of the Respondent attempting to present evidence, and no recollection of Chairman Abbott refusing to accept information from her. He stated that in every case he could recall the Board accepted documents from employees who were present.



The Respondent then went to see Dr. Mary Connelly as a follow up after the accidents and to obtain a release to return to work as part of her worker's compensation claim.

The Respondent chose Dr. Connelly who had treated her in the past.

After her examination, Dr. Connelly sent a letter to the Department releasing Trooper Kirincich to a "trial of full duty" which became part of the Respondent's MRB file.

The Respondent stated Dr. Connelly was not her treating doctor, had only seen her once before, and did not agree with Dr. Connelly's letter.

Subsequently, the MRB recommended that the Respondent receive an independent medical evaluation and referred the Respondent to Dr. Shuja Valika, an endocrinologist. Dr. Valika met with the Respondent and noted she had a long standing history of type 1 diabetes and 2 documented hypoglycemic events. Dr. Valika declined to complete the medical evaluation form as requested by the MRB and deferred all treatment to the Respondent's treating endocrinologist (Dr. Yohay).

Based on the information available the MRB subsequently determined that the Respondent was "permanently unable to perform the essential functions of a sworn officer" and could not continue to work as a trooper. The MRB determined that Dr. Connelly's release of the Respondent to a "trial of full duty" was not considered a release to full duty.

The Respondent was notified by letter and given a choice to accept a vocational reassignment to a code (nonsworn) position as a reasonable accommodation through the Department's Office of Equal Employment Opportunity or resign from the State Police.

The Respondent then met with her attorney and members of the State Police including Chief Parmenter to deliver the MRB's decision, begin the reasonable accommodation process, and answer any questions.

The Respondent through her attorney advised that she would participate in the reasonable accommodation process.

The Respondent was told by Lt. Sgambelluri that if she was interested in pursuing vocational reassignment to a nonsworn position she would have to submit a CMS100 Employment Application, and a State of Illinois Reasonable Accommodation request.

Subsequently the Respondent through her attorney submitted both forms but wrote on the Reasonable Accommodation request that she was seeking a reasonable accommodation of a "patrol change to day shift". The narrative section noted "Night shift causes my blood sugar levels to become unstable and lead to complications for my diabetes. My endocrinologist has advised me that working exclusively on day shift would alleviate the possibility that my blood sugar levels will become unbalanced and allow me to fully perform my duties without complications".

The Respondent also submitted a letter (Resp#4) from her treating endocrinologist Dr. Yohay that stated "an assignment to a day shift would allow her to fully completely and safely perform all her Illinois Trooper patrol duties".

Lt. Col. Trame testified he was aware that the Respondent was not able to work the night shift which is an unreasonable request when there are incidents that occur on all shifts and he was not aware of any officers allowed to work only during the day.

Colonel Simental reviewed the letter requesting a "patrol change to a day shift" and found it concerning because troopers are expected to work any shift and in her 26 years with the State Police was not aware of any sworn officer being approved to work exclusively on one shift. She stated further that in her opinion the Respondent is unable to perform essential functions of a trooper based on job specifications including shift work, call out on emergencies, special details and overtime.

The Department denied the Respondent's request for a reasonable accommodation to the day shift and the Respondent agreed to continue to participate in the process and consider civilian positions.

Pursuant to the reasonable accommodation process the Department initially identified two code positions for the Respondent to consider, a guard 2 position and a truck weighing inspector.

The Respondent interviewed and accepted the truck weighing inspector position.

Before she started a position of a criminal intelligence analyst was posted and ultimately the job was offered to the Respondent.

The Respondent met with Captain Meeder who informed her that she must sign the OAR and PAR forms and resign her position or the Department would consider it a declination of the job and withdraw from the reasonable accommodation process.

The Respondent ultimately signed the OAR and PAR forms but deleted any references to resigning her position.

The Respondent stated that it was never explained to her that the job was contingent on her resignation, that she would lose her pay and pension, and thought the civilian job would be temporary while negotiations for reinstatement as a trooper were ongoing.

A letter was sent to the Respondent stating that by refusing to sign the documents, the reasonable accommodation process was terminated, and the Department would seek her termination.

The case was then sent to DII to initiate the termination process and a Complaint Against Department Member Form (CADMF) was filed and a Disciplinary Review Board case was filed against the Respondent.

### SPECIFIC FINDINGS OF FACT

The Complaint against Trooper Kirincich alleges that she violated Department Directive ROC-002, Paragraph III.A.12 which states:

"Officers will maintain sufficient competency to properly perform their duties and assume the Responsibilities of their positions. Officers will perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of law as required to be enforced; an unwillingness or inability to perform assigned tasks, the failure to conform to work standards established for the officer's rank, grade or position; the failure to take appropriate action on the Occasion of a crime, disorder or other condition deserving police attention; the failure to Successfully complete mandatory annual training requirements; or absence without leave. An isolated incident can be evidence of incompetency and/or unsatisfactory performance. In addition to other indications of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance: repeated poor evaluations or a written record of repeated infractions of rules, regulation, directives or orders of the Department."

The Petitioner is seeking the termination of Jessica Kirincich as an Illinois State Trooper for a violation of the afore-captioned Rule based on the testimony and exhibits presented at hearing and made part of the record.

A violation of said Rule is a level 1 violation which carries a penalty from a letter of reprimand to a 3 day suspension.

The Petitioner's position is that the Respondent should be terminated based on her inability to perform the essential functions of a sworn officer.

As in all disciplinary matters before the Merit Board the Petitioner has the burden to prove by a preponderance of the evidence that the Respondent violated the Rule as alleged.

The Respondent, a type 1 diabetic had 2 incidents of low blood sugar requiring medical assistance as charged in the Complaint. The first was an off duty incident in the Respondent's home that required medical attention from paramedics.

The second and much more serious episode occurred on February 28, 2013 while the Respondent was on duty, in her state police vehicle.

It is un rebutted, and uncontradicted that the Respondent was the cause of 2 multi vehicle car crashes resulting in serious injuries to civilians. The entire incident was recorded by the dashcam video in the Respondent's car. The 2 accidents were a result of low blood sugar which rendered her almost "comatose" when the paramedics found her in her squad car.

The matter was subsequently brought to the MRB for review who found after a hearing that the Respondent was unable to perform the essential functions of a trooper. The only medical evidence the MRB considered was Dr. Connolly's partial release which the MRB determined was not a full release to return to work.

The Respondent claims she tried to tender documents to the MRB at the hearing but a number of witnesses testified that no documents were offered by the Respondent.

A number of attempts to pursue the reasonable accommodation process failed as the Respondent refused to resign.

The Petitioner maintains that they are not seeking the termination of Trooper Kirincich based on the fact that she is a type 1 diabetic only. In fact a number of witnesses testified she was a good trooper, always willing to work, and had favorable evaluations.

The issue of liability was raised at the hearing as well. The State paid out \$1,700,000.00 to settle a major civil claim resulting from the accident. The Petitioner argues that to reinstate the Respondent could result in another incident with serious consequences and liability.

The Respondent's case is for the most part based on the testimony of Dr. Ilene Yohay, the Respondent's treating endocrinologist who provided the only medical testimony at the hearing.

During her testimony Dr. Yohay repeatedly emphasized that it was her medical opinion that the Respondent was fully capable to perform all duties of a State Trooper with no restrictions, and she could do the same job she was hired to do in the beginning. She stated that the Respondent's blood sugars were under control, and her diabetes was no different than it was when she started as a trooper, and could go back to doing exactly what she was doing before. The Doctor also felt that the low blood sugar levels the Respondent experienced at the time of the crash could be attributable to a malfunction of the insulin pump the Respondent was using which was subsequently recalled.

Dr. Yohay submitted a number of letters and an affidavit to the ISP that were introduced at the hearing in support of her opinion. For some reason these documents were either not received or not considered by the MRB and ISP in this case.

The Respondent argues further that she has already been disciplined in this matter. She received a 1 day suspension for the first crash on February 28, 2013 and a 2 day suspension for the more serious personal injury accident that day.

The Respondent maintains that her termination the Petitioner is seeking is disproportionately severe and only came after she did not cooperate and resign as requested during the reasonable accommodation process.

The Respondent states further that a similar incident is unlikely to happen again. She states she constantly monitors her blood sugar levels, and has had no problems since the 2013 accident. Dr. Yohay called the incident a "rare event" and stated the Respondent's blood sugar levels are under control.

The case presents an unfortunate factual situation. The Respondent has been a good trooper as acknowledged by the witnesses, and the Petitioner has stated they are not seeking the Respondent's termination based on any misconduct or poor job performance. In addition, the Petitioner is not seeking termination based solely on the

fact that the Respondent is a type 1 diabetic, but they are seeking termination based on the fact that she is unable to perform the essential functions of a sworn officer.

A thorough review of the record including the transcript and exhibits supports the Petitioner's position and the charge as alleged in the Amended Complaint.

The serious personal injury accidents the Respondent caused on February 28, 2013 that were attributable to the Respondent's low blood sugar levels which rendered the Respondent "comatose" with no recollection of what occurred, was extremely disturbing.

In addition the Respondent's request for a patrol change to the day shift to better control her diabetes was not feasible as described, in that the nature of the job requires troopers to be able and available to work all shifts and additional assignments such as, overtime, special assignments or emergency situations.

Of greater concern is the potential for serious liability if the Respondent were allowed to return to work and experienced a similar incident that resulted in serious personal injuries to civilians or the Respondent herself. Given the knowledge the State Police and Merit Board have regarding this matter before the Board and any future incidents of a similar nature involving the Respondent's medical condition could result in catastrophic liability and damages, in addition to the risk of lives.

The Respondent was hired by the State Police with full knowledge of her diabetes. Although Dr. Yohay states the Respondent's diabetes is under control, and the matter involving the accidents was a rare event that could have been caused by a malfunctioning insulin pump, she could not guarantee that a subsequent episode would not happen again.

The risk of allowing the Respondent to return to active duty as a State Trooper given the totality of the testimony and evidence presented at the hearing, far outweighs the Respondent's pursuit of being reinstated as a sworn officer. The State Police have a duty to protect the public and law enforcement from danger and harm.

Once they are aware of the potential for possible future incidents they cannot put themselves and the public at risk for injury or loss of life.

#### CONCLUSIONS OF LAW

The Illinois State Police Board has jurisdiction over the parties hereto and the subject matter of this case.

This matter is decided exclusively on the evidence admitted at the hearing held in this case.

The burden of proof in this case rests upon the Illinois State Police. The Illinois State Police are required to prove the allegations of the Complaint by a preponderance of the evidence (80 Ill. Adm. Code Ch. IV Secs. 150.665(f), 150.680(a)).

Based on the foregoing it is the finding of the undersigned Hearing Officer that the Petitioner has proven by a preponderance of the evidence that the Respondent is unable to perform the essential duties of a sworn officer of the Illinois State Police in violation of Paragraph III.A.12 of the Rules of Conduct of the Illinois State Police and as charged in the Amended Complaint.

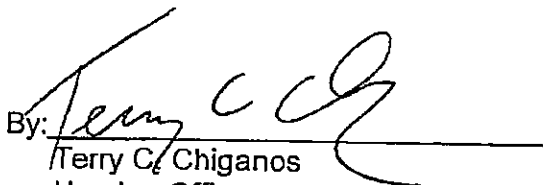


DISCIPLINE/PENALTY

A violation of Paragraph III.A.12. is a type 1 offense punishable by a letter of reprimand and up to a 3 day suspension as described in the disciplinary matrix of the State Police.

The Petitioner is seeking the Respondent's termination as a State Trooper based on a type 1 violation. The Petitioner cites the case of Trooper Travis Jackson as precedent for seeking termination of a trooper in a case alleging the trooper's inability to perform the job.

The appropriate sanctions and penalty in this matter is solely within the purview and discretion of the Illinois State Police Merit Board. The issue is therefore properly left for the review, discussion and decision of the Merit Board.

By:   
Terry C. Chiganos  
Hearing Officer  
Illinois State Police Merit Board

Dated this 12<sup>th</sup> day of December, 2016.

**RECEIVED**

APR 23 2015

**ILLINOIS STATE POLICE  
MERIT BOARD**

**STATE OF ILLINOIS  
ILLINOIS STATE POLICE MERIT BOARD**

**IN THE MATTER OF:**

**TROOPER JESSICA KIRINCICH**  
I.D. No. 6279



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**Illinois State Police  
Merit Board No.**

**COMPLAINT**

**NOW COMES** Leo P. Schmitz, Director of the Illinois State Police, and pursuant to 20 ILCS 2610/14 and 80 Ill. Admin. Code § 150.575 states as follows:

**STATEMENT OF FACTS**

1. Jessica Kirincich (Respondent) is employed as a State Police Officer by the Illinois State Police (Department) and holds the rank of Trooper. At all times relevant to this Complaint, Respondent was assigned to District 2. Respondent has been employed by the Department since August 21, 2011.
2. On February 28, 2013, Respondent was assigned to District 2 and was on the night shift, working patrol from 10:00 p.m. to 8:00 am.
3. While on patrol on February 28, 2013, at approximately 7:45 a.m., District 2 received a call from the DuPage County Communications Center regarding a Department squad car traveling westbound on Geneva Road in DuPage County. The squad car was reported as striking vehicles and being all over the roadway. The squad car was identified as belonging to Respondent.

4. District 2 communications attempted to make contact with Respondent but was unable to get a response.
5. Respondent's driving was erratic; she obeyed some traffic signals but not others, did not remain in her designated lane, struck at least one vehicle without stopping and continued to drive for several minutes before the final collision. Respondent's squad car finally came to a stop when it struck multiple vehicles stopped at a red light at the intersection of Geneva Road and Garry Avenue in Wheaton, Illinois. One of the vehicles Respondent struck in that intersection was driven by a 16 year old girl who was seriously injured by the crash.
6. Respondent was unresponsive when paramedics arrived on the scene. Respondent is a Type I diabetic. The Glen Ellyn Fire Department had to extricate Respondent from her squad car. Paramedics from the Glen Ellyn Fire Department determined that Respondent became hypoglycemic and unresponsive while driving the Department's squad car.
7. Following the crash, Respondent's case was referred to the Department's Medical Review Board (MRB). The case was presented to the MRB on March 20, 2013.
8. The MRB recommended that Respondent be sent to an Independent Medical Evaluation to assess her ability to perform the essential functions of a Trooper.
9. Respondent provided a release from Dr. Mary Connelly, through her worker's compensation case, on April 1, 2013. The document listed Respondent's work status as "trial of full duty." See April 1, 2013, doctor's note attached hereto as Exhibit A.
10. The MRB sent Respondent to Dr. Shuja Valika, who evaluated Respondent on April 11, 2013. Dr. Valika deferred to Respondent's treating endocrinologist to determine her driving abilities. See May 7, 2013, letter attached hereto as Exhibit B.

11. Respondent did not provide any additional medical information to the Department until after the MRB rendered its opinion.
12. Based on the information provided, the MRB determined that Respondent's medical condition presents a direct threat to the public which cannot reasonably be accommodated. The MRB further determined that Respondent was permanently unable to perform the essential functions of a sworn officer and could not continue to work as a Trooper. Respondent was informed of that decision in a letter dated September 19, 2013.
13. Based on the decision of the MRB, the September 19, 2013, letter presented Respondent with two options: (1) request a vocational reassignment to a code position as a reasonable accommodation through the Department's Office of Equal Employment Opportunity or (2) resign from the Department. See September 19, 2013, letter attached hereto as Exhibit C.
14. On November 19, 2013, Respondent, through her attorney, advised that she would participate in the reasonable accommodation process.
15. The Department explained, both in person and in writing, that if Respondent was interested in pursuing a vocational reassignment that she submit a CMS-100 form and a State of Illinois Reasonable Accommodation Request form. Respondent submitted both and indicated that she is seeking a reasonable accommodation of a "patrol change to a day shift."
16. On December 2, 2013, Respondent provided a letter from her endocrinologist, Dr. Eillen Yohay, dated November 26, 2013. Dr. Yohay stated that "an assignment to a day shift would allow her to fully, completely, and safely perform all her Illinois State Trooper patrol duties." See November 26, 2013, letter attached hereto as Exhibit D.

17. On December 6, 2013, the Department denied Respondent's request for a reasonable accommodation to a sworn position on the day shift after determining that her request would not reasonably accommodate her in such a manner as to ensure she was able to perform the essential functions of a sworn officer. The Department encouraged the Respondent to continue with the reasonable accommodation process for vocational reassignment to a code position. See letter attached hereto as Exhibit E.
18. The job description for an Illinois State Police Trooper states that the Trooper must be able to work day, evening or midnight hours on a rotation basis and "are subject to an emergency call-up on a 24 hour-a-day basis." See Job Description attached hereto as Exhibit F.
19. On December 6, 2013, Respondent agreed to continue with the reasonable accommodation process and acknowledged her understanding that the Department would only be offering "civilian positions." See December 6, 2013 letter attached hereto as Exhibit G.
20. On January 10, 2014, Respondent began working at District 15 on restricted duty while participating in the reasonable accommodation process.
21. The Department through the reasonable accommodation process initially located two code positions that the Respondent was qualified for: Truck Weighing Inspector (TWI) and Guard II.
22. Respondent interviewed for both positions. On December 18, 2014, she was offered both positions. On December 19, 2014, Respondent was again reminded, in writing, that if she declined to accept a position it would be considered a withdrawal from the reasonable accommodation process. See December 19, 2014, letter attached hereto as Exhibit H.

23. Respondent, on December 26, 2014, accepted the TWI position.
24. Before beginning the TWI position, a Criminal Intelligence Analyst I (CIA) position was identified for Respondent. Respondent was given the opportunity to interview for that position and did so on January 30, 2015.
25. Respondent was offered and accepted the CIA position. When presented with the Officer Action Request (OAR) to resign her sworn position and the Personnel Action Request (PAR) to begin her code position, Respondent declined to sign the forms.
26. Respondent was advised that her refusal to resign would result in withdrawal from the reasonable accommodation process.
27. Respondent did not execute either form and persisted in her refusal to resign.

### COUNT I

#### UNSATISFACTORY WORK PERFORMANCE

28. Paragraphs 1.-27. of this Complaint are incorporated as if restated fully herein.
29. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.12., which states:

“Officers will maintain sufficient competency to properly perform their duties and assume the Responsibilities of their positions. Officers will perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the officer's rank, grade or position;

the failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention; the failure to successfully complete mandatory annual training requirements; or absence without leave. An isolated incident can be evidence of incompetency and/or unsatisfactory performance. In addition to other indications of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance: repeated poor evaluations or a written record of repeated infractions of rules, regulations, directives or orders of the Department.”

**(First Offense – Level 1 Misconduct: Reprimand up to 3 days)**

Respondent violated this rule in that she is unable to perform the essential functions of an Illinois State Trooper. Respondent is therefore unable to properly perform her duties and cannot carry out the functions and objectives of the Department in any sworn capacity.

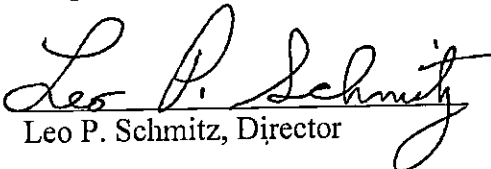
**CERTIFICATION**

A copy of Illinois State Police Department Directive ROC-002, Rules of Conduct, is attached and is certified by the Director as accurate, complete, and in full force and effect at the time the aforementioned acts were committed.

**CONCLUSION**

**WHEREFORE**, by reason of these facts and charges, I request the Illinois State Police Merit Board conduct a hearing in this matter and terminate Respondent from employment with the Illinois State Police.

Respectfully submitted,

  
Leo P. Schmitz, Director

Illinois State Police  
801 South Seventh Street, Suite 1100-S  
Springfield, Illinois 62703